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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,462	08/10/2001	Richard Bugaj	3961.47USWO	1247

23552 7590 05/22/2003

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P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/868,462

Applicant(s)

BUGAJ, RICHARD

Examiner

Thomas J. Williams

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-57 is/are pending in the application.
- 4a) Of the above claim(s) 7-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-56 is/are rejected.
- 7) ☒ Claim(s) 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Acknowledgment is made in the receipt of amendment A filed February 19, 2003, amendment B and drawings filed April 3, 2003.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 3, 2003 have been approved for drawing 22a. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 3, 2003 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of a coil spring associated with the embodiment illustrated in new figure 17a.

Specification

4. The amendment filed April 3, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: all matter regarding figure 17a should be deleted.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 52 is rejected under 35 U.S.C. 102(b) as being anticipated by US 1,089,002 to Lyon.

Lyon discloses a shock absorber, comprising: a first cylinder (top cylinder 8) has a longitudinal axis; a first piston 28, the first piston is located within the first cylinder, the first piston moves inside of the cylinder and partly defines a first liquid chamber; a second cylinder (bottom cylinder 8) has a longitudinal axis that is the same as the longitudinal axis of the first cylinder, the first and second cylinders are relatively displaceable along the axis; a second piston is located within the second cylinder for axial movement, the second piston partly defines a second liquid chamber having a second volume; a connecting member 20 attaches the pistons, the pistons will move in unison, the cylinders will move relative to each other and relative to the pistons; ducting (such as 16 and 28) extend from each chamber (this is consistent with the embodiment of instant figure 1 in which the only ducting present is passage 16 in the piston 13), the ducting provides for restricted flow of liquid; mountings (such as at 10 and 24) secure the first and second cylinders to a body 25 of a vehicle and a wheel suspension 12 of the vehicle.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 53 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon in view of US 5,477,947 to Schalles et al.

Re-claim 53, Lyon fails to teach a further piston for axial movement in one of cylinders, separating the cylinder into a liquid chamber and a gas chamber. Schalles et al. teaches in figure 1a a shock absorber with a piston located in a cylinder, thus dividing the cylinder into a gas chamber 2 and liquid chamber 1b. It would have been obvious to one of ordinary skill in the art to have provided at least one cylinder of Lyon with another piston to define a gas chamber as taught by Schalles et al., thus providing the shock absorber with a compensation means to minimize vehicle vibrations as taught by Schalles et al., see column 1 lines 53-59.

Re-claim 55, Lyon fails to teach a third cylinder having a third piston forming a gas chamber, wherein the third cylinder is connected to a liquid chamber by ducting. Schalles et al. teaches a gas sub-chamber located exterior to a cylinder containing liquid. Schalles et al. further teaches that the gas sub-chamber can take on the form of a cylinders having a piston forming a gas sub-chamber, see column 9 lines 62-65. It would have been obvious to one of ordinary skill in the art to have connected at least one cylinder of Lyon with a third cylinder and piston arrangement defining a gas sub-chamber as taught by Schalles et al., thus providing the shock absorber with a compensation means to minimize vehicle vibrations as taught by Schalles et al., see column 1 lines 53-59.

9. Claims 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon in view of US 2,774,446 to Bourcier De Carbon.

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Re-claim 53, Lyon fails to teach a further piston for axial movement in one of cylinders, separating the cylinder into a liquid chamber and a gas chamber. Bourcier De Carbon teaches in figure 1 a shock absorber with a piston located in a cylinder, thus dividing the cylinder into a gas chamber A and liquid chamber L. It would have been obvious to one of ordinary skill in the art to have provided at least one cylinder of Lyon with another piston to define a gas chamber as taught by Bourcier De Carbon, thus providing the shock absorber with a compensation means to minimize a cavitation phenomena as taught by Bourcier De Carbon, see column 2 lines 51-56.

Re-claim 54, Bourcier De Carbon teaches the gas chamber associated with a valve for adjusting the internal gas pressure. It would have been obvious to one of ordinary skill in the art to have provided the shock absorber of Lyon as modified by Bourcier De Carbon with a valve for adjusting the internal gas pressure as taught by Bourcier De Carbon, thus providing an easy method by which to fill and adjust the internal gas pressure, see column 5 lines 19-28.

10. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon in view of Schalles et al. as applied to claim 55 above, and further in view of US 2,774,446 to Bourcier De Carbon.

Re-claim 56, Lyon as modified by Schalles et al. fails to teach the use of a valve connected to the gas sub-chamber. Bourcier De Carbon teaches a gas sub-chamber associated with a valve, the valve is used to fill and adjust the gas sub-chamber, see column 5 lines 19-28. It would have been obvious to one of ordinary skill in the art to have provided the shock absorber of Lyon as modified by Schalles et al. with a valve for adjusting the internal gas pressure as taught by Bourcier De Carbon, thus providing an easy method by which to fill and adjust the internal gas pressure.

Allowable Subject Matter

11. Claim 57 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346.

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The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

May 16, 2003


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600